

CHAPTER NO. 619**HOUSE BILL NO. 3285****By Representatives Head, Fitzhugh****Substituted for: Senate Bill No. 3246****By Senator Henry**

AN ACT to amend Tennessee Code Annotated, Sections 7-82-401, 7-82-703, and 7-86-304 and 68-221-1010 relative to the determination of financially distressed water and wastewater systems, utility districts and emergency communications districts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-221-1010(a)(1) is amended by deleting the words "retained earnings deficit" and substituting the words "deficit total net assets", and by deleting the words "has an operating deficit" and substituting the words "has a negative change in net assets" in the first sentence.

SECTION 2. Tennessee Code Annotated, Section 68-221-1010(a)(1) is further amended by deleting the word "equity" and substituting the words "net assets" in the second sentence and by deleting the last sentence of such subsection.

SECTION 3. Tennessee Code Annotated, Section 68-221-1010(a)(2) is amended by deleting the subsection in its entirety.

SECTION 4. Tennessee Code Annotated, Section 68-221-1010(a)(3) is amended by deleting the language "retained earnings deficit or an operating deficit," and substituting the language "deficit total net assets or a negative change in net assets," in the third sentence.

SECTION 5. Tennessee Code Annotated, Section 68-221-1010(a)(4) is amended by deleting the language "retained earnings deficit or operating deficit," and substituting the language "deficit total net assets or a negative change in net assets,".

SECTION 6. Tennessee Code Annotated, Section 68-221-1010(b)(2)(B) is amended by deleting the language "retained earnings deficit;" and substituting the language "deficit total net assets;".

SECTION 7. Tennessee Code Annotated, Section 7-82-401(g)(1) is amended by deleting the second sentence in its entirety and by substituting the following:

For the purposes of this chapter, a financially distressed utility district is a utility district which, as shown by the annual audits, has either deficit total net assets, is in default on any indebtedness, fails to comply with the provisions of § 7-82-403 for three (3) consecutive years, or has a negative change in net assets for three (3) consecutive years.

SECTION 8. Tennessee Code Annotated, Section 7-82-703(a) is amended by deleting the language "retained earnings deficit," and substituting the language "deficit total net assets or a negative change in net assets for a period of three (3) years,"

SECTION 9. Tennessee Code Annotated, Section 7-82-703 is further amended by deleting the language "to liquidate in an orderly fashion any retained earnings deficit" and substituting the language "to eliminate negative changes in net assets, to liquidate in an orderly fashion any deficit total net assets" in subsection (b).

SECTION 10. Tennessee Code Annotated, Section 7-86-304(d)(1), is amended by deleting the language "For the purposes of this chapter," in the second sentence and by further deleting subsections (A) and (B) in their entirety and by substituting instead the following:

(A) Has a negative change in net assets for a period of three (3) consecutive years; or

(B) Has deficit total net assets; or

SECTION 11. Tennessee Code Annotated, Section 7-86-304(d)(2), is amended by deleting the following language:

"retained earnings deficits, to cure a default on any indebtedness of the district, and/or to remedy the failure of the district to produce revenues sufficient to provide for all expenses and maintenance of the district, including reserves."

and by substituting the following language:

"deficit total net assets, to cure a default on any indebtedness of the district, and/or to eliminate the negative change in net assets."

SECTION 12. Tennessee Code Annotated, Section 7-86-304(d) is amended by adding the following language as a new subsection (2) and renumbering accordingly:

(2) Notwithstanding the provisions of subsection (d)(1), the board may determine that a district is a "financially distressed emergency communications district," and shall be subject to the supervision and evaluation of the board, if a district:

(A) Is the subject of a lien filed by the Internal Revenue Service; or

(B) The board determines that it appears that the district cannot satisfy its financial obligations to the extent that the continued operation of the district is at risk; or

(C) The district has defaulted on any indebtedness due to insufficient funds, such default is not cured within sixty (60) days and, upon determination of the board, it appears that the district cannot satisfy its financial obligations to the extent that the continued operation of the district is at risk.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 22, 2004


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 6th day of May 2004


PHIL BREDESEN, GOVERNOR